

Remarks

In an Office action, dated February 23, 2005, claims 1, 2 and 5 were rejected under 35 U.S.C. § 102(b) as being anticipated by Ader (U.S. Pat. No. 5,743,670). A careful review of Ader, however, indicates that such does not provide a legitimate basis for the rejection of claims 1, 2 and 5. Accordingly, the Examiner is asked to reconsider claims 1, 2 and 5 in light of the following remarks.

Claims 1, 2 and 5 are directed toward a pop-up fastener of uncomplicated construction. Among other things, the claimed fastener calls for a compressed spring *positioned atop a retainer* for urging a protrusion into *engagement with the bottom of the retainer* and for urging helical threads *from the top of the retainer*. The result is a fastener whose helical threads are capable of projecting from a socket to a height limited by the engagement of the protrusion with the retainer.

The Examiner's analysis of Ader with respect to claim 1 is confusing at best. In it, he references features of the embodiment of Ader's fastener shown in figure 1 and combines them with features of a second embodiment shown in figure 6. Because a combination is required in an effort to meet the Applicants' claims, it would seem that assertions that Ader anticipates claims 1, 2 and 5 are misplaced.

Assuming, for the sake of argument, that the Examiner meant to discuss compressed spring 140 and helical threads 52 comprising features of the fastener embodiment shown in figure 1 of Ader, it can easily be seen that Ader's fastener does not meet the limitations of claim 1. For example, since spring 140 and threads 52 are located on opposite sides of retainer 120 and since threads must be urged from the top of retainer 120 (a limitation of claim 1), spring 140 must be positioned beneath, rather than atop retainer 120 as required by claim 1. Additionally,

protrusion 20 is not urged into engagement with retainer 120 and cannot engage retainer 120, because of its reduced diameter, as required by claim 1 despite the Examiner's assertion to the contrary. Thus, Ader cannot be said to anticipate base claim 1 or dependent claims 2 and 5 since important limitations of the base claim are not met.

These relationships between the functional features illustrated in figure 6 appear to be identical to those noted above with respect to figure 1. In figure 6, neither is a spring shown to be positioned atop a retainer nor is a protrusion shown to be urged into engagement with the bottom of a retainer. Interestingly, key 212D, said by the Examiner to be the bottom of retainer 340, is held in a keyway at a distance from the unnumbered protrusion (analogous to protrusion 20 in figure 1) and cannot be engaged by the protrusion. So, the fastener of figure 6 fails to meet the Applicants claims.

With respect to claim 5, the Examiner misstates the teachings of Ader. First, the Examiner asserts that coiled spring 140 engages the bottom of peripheral flange 40. Spring 140, however, is clearly separated from peripheral flange 40 by retainer 120 so that no engagement can take place. Furthermore, because retainer 120 comes between spring 140 and flange 40, spring 140 cannot engage the bottom of flange 40 and the top of retainer 120 as claimed.

Claims 3, 4 and 6-9 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Ader (U.S. Pat. No. 5,743,670) in view of Martelli (U.S. Pat. No. 4,810,144). A careful review of these references indicates that such do not provide a legitimate basis for rejection of claims 3, 4 and 6-9. Accordingly, the Examiner is asked to reconsider claims 3, 4 and 6-9.

Ader differs in concept from the Applicant's fastener in that Ader's retainer 120 is a ring gear that is meant to be rotated to turn fastening member 50 and threads 52. In any event, Ader fails to teach that the retainer includes a tubular sleeve and wedge as is claimed by the Applicants

to drive against the interior surface of a socket. Instead, the periphery of retainer/ring gear 120 of Ader is meant only for engagement with a bevel gear 150.

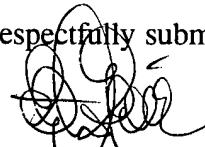
The Examiner recognizes that claims 3, 4 and 6-9 are not met by Ader but, nevertheless, contends that the teachings of Martelli somehow makes Applicants' fastener obvious. It goes without saying that if the Ader's fastener requires some modification in order to be properly combined with Martelli and such a modification destroys the function of the Ader's fastener, one of ordinary skill in the art would not have found a reason to make the suggested modification. Assuming, again for the sake of argument, that some teaching exists in Martelli to support its combination with Ader, Ader's gear arrangement for turning threads 52 would be lost when combined with Martelli since Martelli's legs and sharp edges are meant to bind. The retainer 120 of Ader, referred to hereinabove, providing a ring gear is clearly incompatible with the binding wedges, paired or otherwise, of Martelli. It is respectfully submitted, then, that one of ordinary skill in the art would not have made the combination suggested by the Examiner.

Further, we can find no teaching in Martelli that would suggest its combination with Ader to arrive at Applicants' claimed fastener. It is not desirable for the edges of Ader's retainer/ring gear 120 to dig into anything as the Examiner suggests, rather these edges must slide freely against all that its periphery may touch or a gear arrangement is lost. It is believed, then, that the Examiner has impermissibly used hindsight knowledge of claims 3, 4 and 6-9 of the present application to abstract individual teachings from issued patent to create the combination upon which he rejected such claims. If the Examiner chooses to maintain his rejection of claims 3, 4 and 6-9, it is respectfully requested that a reasonable motivation for the proposed combination of the cited patents be provided to the Applicants.

Claims 1 and 10 were tweaked to clear up grammatical issues. Accordingly, it is respectfully submitted that this application is in condition to be passed to issue. If such is not

determined to be the case, however, the Examiner is respectfully requested to call the undersigned attorney at the number given below in an effort to satisfactorily conclude the prosecution of this application.

Respectfully submitted,



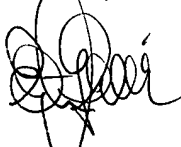
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